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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,379	12/21/2001	Hans Ries	213260US0	6128

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ALEXANDRIA, VA 22314

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/024,379	RIES ET AL.	
	Examiner	Art Unit	
	Marc A Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>Z</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Objections

1. Claim 34 is objected to because of the following informalities: The text of amended Claim 34 stops in mid – sentence. The amended claim includes the text in original Claim 34 from lines 3 – 21 of originally filed page 28, but the rest of the claim is missing. Appropriate correction is required.

WITHDRAWN REJECTIONS

2. The 35 U.S.C. 112 second paragraph rejections of Claims 1 – 32 and 34 – 35, of record on page 2 of the previous Action, are withdrawn.

REPEATED REJECTIONS

3. The rejection of Claims 1 – 5, 9 – 12, 20 and 23 – 36 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 15, 18, 21, 23 and 28 of U.S. Patent No. 6,355,358 B1, of record on page 5 of the previous Action, is repeated.

The rejection of Claims 6 – 8, 13 – 18 and 21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 of U.S. Patent No. 6,355,358 B1 in view of Mugge et al (U.S. Patent No. 5,404,915) of record on page 6 of the previous Action, is repeated.

The rejection of Claim 19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 22 of U.S. Patent No. 6,355,358 B1 in view of Hata et al (European Patent No. 0742096).

NEW REJECTIONS

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 – 36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to Claim 1, the phrase ‘which is obtained by reacting a member selected from the group consisting of from caprolactam and / or from a combination of hexamethylene diamine / adipic acid’ is indefinite as it is unclear which monomer is being referred to, since two monomers are claimed in b). It is also unclear what the reactions are, and what the caprolactam and lauro lactam are reacting with. If the ‘monomer’ is the lactam, then it is unclear how it is possible to obtain a lactam from the ‘reaction’ of a lactam. The phrase ‘which is obtained by reacting a member selected from the group consisting of amino-undecanoic acid, lauro lactam’ is indefinite as it is unclear what the amino-undecanoic acid and lauro lactam are being reacted with. For purposes of examination, it will be assumed that the composite is synthesized by any method. For purposes of examination, the phrases will be assumed to mean that the lactam in part β) comprises caprolactam, and the ω – aminocarboxylic acid in β) comprises ω – aminoundecanoic acid.

6. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. The term 'internal' is indefinite as no inside or outside has been defined for the composite.

7. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'outermost' is indefinite as no inside or outside has been defined for the composite.

8. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is also indefinite as it is directed to a composition comprising 0% of a polyamide ('a') which is subjected to solid – phase post condensation.

9. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is indefinite as it is directed to a composition comprising 0% of a polyamide ('a') which is linked by a reactive compound.

ANSWERS TO APPLICANT'S ARGUMENTS

10. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of Claims 1 – 32 and 34 – 35, of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

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Applicant's arguments regarding the rejection of Claims 1 – 5, 9 – 12, 20 and 23 – 36 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 15, 18, 21, 23 and 28 of U.S. Patent No. 6,355,358 B1, rejection of Claims 6 – 8, 13 – 18 and 21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 of U.S. Patent No. 6,355,358 B1 in view of Mugge et al (U.S. Patent No. 5,404,915) and rejection of Claim 19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 22 of U.S. Patent No. 6,355,358 B1 in view of Hata et al (European Patent No. 0742096), of record in the previous Action, have been carefully considered but have been not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 16, that Boer et al fails to disclose a monomer unit obtained by reacting the components set forth in the last two paragraphs of Claims 1, 32 and 34 – 35. However, as stated on page 5 of the previous Action, the method of making the composite (product – by – process), including reaction chemistry, is given little patentable weight. Furthermore, the monomer claimed in the patented invention comprises a mixture of a lactam and a ω – aminocarboxylic acid (column 13, lines 1 – 4). The claimed aspect in c) of the present invention of the monomer comprising at least 20 parts by weight caprolactam and at least 20 parts by weight laurolactam therefore reads on the patented invention.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 10/24/03